

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

SANTEE SIOUX NATION
108 Spirit Lake Ave. W
Niobrara, NE 68760,

Plaintiff,

v.

ROSELYN TSO, in her official capacity as
DIRECTOR OF THE INDIAN HEALTH SERVICE;

UNITED STATES INDIAN HEALTH SERVICE;

XAVIER BECERRA, in his official capacity as
SECRETARY OF HEALTH AND HUMAN
SERVICES;

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

THE UNITED STATES OF AMERICA.

Defendants.

8:23-CV-00530-BCB-MDN

JOINT STIPULATION TO WITHDRAW
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

1. Plaintiff Santee Sioux Nation (the Tribe) and Defendants Roselyn Tso, Director of the Indian Health Service; United States Indian Health Service (IHS); Xavier Becerra, Secretary of Health and Human Services; United States Department of Health and Human Services (HHS); and the United States of America,¹ through undersigned counsel, hereby jointly stipulate to Plaintiff's withdrawal of its Emergency Motion for Temporary Restraining Order and Preliminary Injunction (ECF 1, 2), as set forth herein.
2. HHS and IHS, through the HHS Program Support Center (PSC), has informed the Tribe (through counsel) that HHS and IHS have recalled the debt in dispute in this matter (the

¹ Pursuant to discussions between the parties, the Tribe has simultaneously herewith voluntarily dismissed its claims against the United States Department of the Treasury, Bureau of the Fiscal Service, and Commissioner Timothy Gribben, Commissioner Bureau of Fiscal Service, without prejudice.

“disputed debt”) from the U.S. Department of Treasury’s (Treasury) Treasury Offset Program (TOP), and that HHS and IHS are not currently collecting on the disputed debt.

3. In return for Plaintiff’s commitments to: (i) withdraw its motion for a temporary restraining order; (ii) not file a motion for a preliminary injunction; and (iii) negotiate a reasonable schedule with Defendants for resolving this matter on cross motions for summary judgment (or other dispositive motions), HHS and IHS agree to not re-refer the disputed debt for further collection efforts until the Tribe’s lawsuit is resolved on the merits, including any appeals.
4. Interest on any disputed debt, if any, will continue to accrue pursuant to 45 C.F.R. § 30.18 during the pendency of this litigation.
5. In return for Plaintiff’s commitments in paragraph 3 herein, HHS and IHS further agree to reverse the previous offsets and reissue the payments for all offsets provided to IHS by Treasury and not refunded to the Tribe to date. Plaintiff’s withdrawal of the Emergency Motion for Temporary Restraining Order and Preliminary Injunction shall be without prejudice to re-filing should the previously offset funds not be reversed and reissued on or before January 16, 2024.
6. Plaintiff and Defendants further agree Defendants will file an Answer by February 2, 2024. Plaintiff and Defendants further agree to confer and file a Joint Report of Parties’ Planning Conference, i.e. Rule 26(f) Report, on or before March 4, 2024, to address: 1) the deadline for Defendants’ filing of the Administrative Record in this matter; 2) a deadline for filing any motions to supplement the Administrative Record or conduct discovery; ; and 3) if no motion to supplement the Administrative Record or conduct discovery is filed, a proposed briefing schedule for the parties’ respective dispositive motions.

Dated: December 6, 2023

SANTEE SIOUX NATION,
Plaintiffs

AND:

By: /s/ Conly Schulte
Conly J. Schulte (NE Bar No. 20158)
Aidan Graybill (pro hac vice pending)
PEEBLES KIDDER BERGIN & ROBINSON LLP
945 Front Street
Louisville, CO 80027
Telephone: (303) 284- 8228
Email: cschulte@ndnlaw.com
agraybill@ndnlaw.com

Ben Fenner (DC Bar No. 1011266)
PEEBLES KIDDER BERGIN & ROBINSON LLP
401 9th St. NW Suite 700
Washington, DC 20004
Telephone: (202) 450-4887
Email: bfenner@ndnlaw.com

ROSELYN TSO, DIRECTOR OF THE INDIAN HEALTH
SERVICE; UNITED STATES INDIAN HEALTH
SERVICE; XAVIER BECERRA, SECRETARY OF
HEALTH AND HUMAN SERVICES; UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN SERVICES;
and THE UNITED STATES OF AMERICA, Defendants

BY: SUSAN LEHR
Acting United States Attorney
District of Nebraska

And: s/ Lynnett M. Wagner
LYNNETT M. WAGNER, #21606
Assistant U.S. Attorney
1620 Dodge Street, Suite 1400
Omaha, NE 68102-1506
Tel:(402) 661-3700
Fax: (402) 661-3081
E-mail: LWagner@usa.doj.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this the 6th day of December 2023, they served a true and correct copy of the foregoing Joint Stipulation to Withdraw Temporary Restraining Order and Preliminary Injunction upon the party below, by delivering the same via email and USPS certified mail to:

Lynnett M. Wagner
Assistant U.S. Attorney
1620 Dodge Street, Suite 1400
Omaha, NE 68102-1506
E-mail: LWagner@usa.doj.gov

s/ Serena Steiner
Serena Steiner, Legal Assistant
Peebles Kidder Bergin & Robinson LLP